

FIFTY-SIXTH DAY

Wednesday, April 24, 2019

The Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019, convened at 11:38 a.m. with the President in the Chair.

The Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fifty-Fifth Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 852 to 858) were read by the Clerk and were placed on file:

Hse. Com. No. 852, informing the Senate that on April 23, 2019, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bills:

S.B. No. 652, S.D. 1 (H.D. 1):

Representatives Aquino, Cullen, co-chairs; McDermott.

S.B. No. 991, S.D. 1 (H.D. 1):

Representatives Ohno, Takumi, Nishimoto, co-chairs; McDermott.

Hse. Com. No. 853, informing the Senate that on April 23, 2019, the House reconsidered its action taken on April 2, 2019, in disagreeing to the amendments proposed by the Senate to H.B. No. 168 (S.D. 1).

Hse. Com. No. 854, informing the Senate that on April 23, 2019, the House reconsidered its action taken on April 9, 2019, in disagreeing to the amendments proposed by the Senate to H.B. No. 273, H.D. 1 (S.D. 1).

Hse. Com. No. 855, informing the Senate that on April 23, 2019, the House reconsidered its action taken on April 11, 2019, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 169, H.D. 1 (S.D. 2);
H.B. No. 329, H.D. 1 (S.D. 2);
H.B. No. 497, H.D. 1 (S.D. 2);
H.B. No. 499, H.D. 1 (S.D. 1);
H.B. No. 945, H.D. 1 (S.D. 1);
H.B. No. 1261, H.D. 1 (S.D. 1); and
H.B. No. 1305, H.D. 2 (S.D. 1).

Hse. Com. No. 856, informing the Senate that on April 23, 2019, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the Senate to the following House bill:

H.B. No. 1405, H.D. 2 (S.D. 2):

Representatives Yamane, Todd, co-chairs; Thielen.

Hse. Com. No. 857, informing the Senate that on April 23, 2019, the Speaker discharged all conferees to the following bills:

H.B. No. 336, H.D. 2 (S.D. 2);
H.B. No. 507, H.D. 1 (S.D. 1);
H.B. No. 711, H.D. 1 (S.D. 1);
H.B. No. 748, H.D. 2 (S.D. 2); and
H.B. No. 807, H.D. 1 (S.D. 1).

Hse. Com. No. 858, informing the Senate that on April 24, 2019, the Speaker appointed conferees on the part of the House

for the consideration of amendments proposed by the House to the following Senate bill:

S.B. No. 770, S.D. 1 (H.D. 1):

Representatives Ohno, Takumi, co-chairs; McDermott.

CONFERENCE COMMITTEE REPORTS

Senator Gabbard, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate to H.B. No. 1028, H.D. 1, presented a report (Conf. Com. Rep. No. 4) recommending that H.B. No. 1028, H.D. 1, S.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 4 and H.B. No. 1028, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENDANGERED SPECIES TRUST FUND," was deferred for a period of 48 hours.

Senator Rhoads, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1037, S.D. 1, presented a report (Conf. Com. Rep. No. 5) recommending that S.B. No. 1037, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 5 and S.B. No. 1037, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," was deferred for a period of 48 hours.

Senator Rhoads, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 413, presented a report (Conf. Com. Rep. No. 6) recommending that S.B. No. 413, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 6 and S.B. No. 413, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRESPASS," was deferred for a period of 48 hours.

Senator Ruderman, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 947, S.D. 1, presented a report (Conf. Com. Rep. No. 7) recommending that S.B. No. 947, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 7 and S.B. No. 947, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILIES," was deferred for a period of 48 hours.

Senator Baker, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 1525, S.D. 1, presented a report (Conf. Com. Rep. No. 8) recommending that S.B. No. 1525, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 8 and S.B. No. 1525, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES," was deferred for a period of 48 hours.

Senator Dela Cruz, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 494, S.D. 1, presented a report (Conf.

Com. Rep. No. 9) recommending that S.B. No. 494, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15 of the Constitution of the State of Hawai'i, action on Conf. Com. Rep. No. 9 and S.B. No. 494, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL FUND BALANCE," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Inouye, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 2237) recommending that S.R. No. 154 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 2237 and S.R. No. 154, entitled: "SENATE RESOLUTION REQUESTING THE EXTENSION OF KEAUNUI DRIVE TO RENTON ROAD IN EWA BEACH," was deferred until Thursday, April 25, 2019.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2238) recommending that the Senate advise and consent to the nominations to the Early Learning Board of the following:

KERRIE UROSEVICH, in accordance with Gov. Msg. No. 686;

LEILANI AU, in accordance with Gov. Msg. No. 687;

BENJAMIN NAKI III, in accordance with Gov. Msg. No. 707; and

JUSTINA ACEVEDO-CROSS, in accordance with Gov. Msg. No. 721.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2238 and Gov. Msg. Nos. 686, 687, 707, and 721 was deferred until Thursday, April 25, 2019.

Senator Kidani, for the Committee on Education, presented a report (Stand. Com. Rep. No. 2239) recommending that the Senate advise and consent to the nominations to the Hawai'i Teacher Standards Board of the following:

BRAD SHIMIZU, in accordance with Gov. Msg. No. 546;

DAVELYN HAN, in accordance with Gov. Msg. No. 741; and

KIM SANDERS, in accordance with Gov. Msg. No. 742.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2239 and Gov. Msg. Nos. 546, 741, and 742 was deferred until Thursday, April 25, 2019.

ORDER OF THE DAY

AGREE/DISAGREE

MATTERS DEFERRED FROM TUESDAY, APRIL 23, 2019

S.C.R. No. 3, S.D. 1 (H.D. 1):

By unanimous consent, action on S.C.R. No. 3, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION CONVENING A TASK FORCE TO STUDY THE ISSUE OF RESIDENTIAL SPRINKLER COSTS IN NEW ONE- AND TWO-FAMILY DWELLINGS," was deferred until Thursday, April 25, 2019.

S.C.R. No. 112, S.D. 1 (H.D. 1):

By unanimous consent, action on S.C.R. No. 112, S.D. 1 (H.D. 1), entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE PERFORMANCE AND MANAGEMENT AUDIT OF THE CITY AND COUNTY OF

HONOLULU DEPARTMENT OF ENVIRONMENTAL SERVICES," was deferred until Thursday, April 25, 2019.

The Chair acknowledged the presence of the Honorable David Y. Ige, Governor of the State of Hawai'i, in the gallery.

ADVISE AND CONSENT

Stand. Com. Rep. No. 2230 (Gov. Msg. Nos. 570, 571, and 572):

Senator Kim moved that Stand. Com. Rep. No. 2230 be received and placed on file, seconded by Senator Kidani and carried.

Senator Kim then moved that the Senate advise and consent to the nominations to the Board of Regents of the University of Hawai'i of the following:

ROBERT WESTERMAN, term to expire June 30, 2022 (Gov. Msg. No. 570);

ALAPAKI NAHALE-A, term to expire June 30, 2023 (Gov. Msg. No. 571); and

KELLI ACOPAN, term to expire June 30, 2020 (Gov. Msg. No. 572),

seconded by Senator Kidani.

Senator Kim rose to speak in support of the nominees as follows:

"Mr. President, your Committee on Higher Education has reviewed the three nominations and heard from the nominees, and recommends confirmation of Robert Frank Westerman, Sr.; Albert 'Alapaki' Nahale-a; and Kelli Acopan to the Board of Regents. The nominees have been serving since January. Regent Benjamin Kudo testified before the committee and had high praise for the nominees. He attested to the sincerity and seriousness of all three and was impressed with their dedication to learning their responsibilities and the passion for the perspectives they bring to their duties.

"Robert Frank Westerman, Sr., represents Kaua'i, where he was the chief of Kaua'i Fire Department for 13 years. He spent his childhood as a military dependent living all over the mainland, Asia and Southeast Asia, and Hawai'i. He enjoyed a career in the U.S. Air Force and served in Vietnam during the conflict there. Among his degrees and certifications, Mr. Westerman has an MBA from the University of Hawai'i at Mānoa. Chief Westerman desired to become a regent because, as a civic-minded citizen, a UH alumnus, and an employer using the UH System, he wanted to offer his ideas for improvement from those perspectives while holding the school administration accountable to the policies set by the board. At his confirmation hearing, Chief Westerman told our committee that he was looking forward to applying his years of administrative experience to the policies and practices of the university and to ensuring that Kaua'i Community College has a voice and place within a very large and complex education system. (I'm sure, Mr. President, you agree to all of that?)

"Alapaki Nahale-a describes himself as a poor homestead boy who hails from Keaukaha on Hawai'i island. He is the senior director of community engagement and resources for his home island for Kamehameha Schools, his alma mater. Despite his self-described humble upbringing, he's a graduate of the University of Pennsylvania and, since graduation, has returned home to serve the people of Hawai'i in many key leadership capacities. You will recall that he was the director and chairman of the Department of Hawaiian Home Lands and East Hawai'i commissioner. As a dedicated public servant, Mr. Nahale-a recognizes that the regents are individually and collectively responsible for the successes and failures of the University of Hawai'i, and he and his fellow regents must demonstrate the

leadership necessary to ensure the institution upholds its promise to the people of the islands to improve the social and economic and environmental well-being of current and future generations. He contends that the school must regain the people's confidence and trust, and that the regents should be engaged and working hand in hand with the school stakeholders.

"Kelli Acopan is the student representative to the Board of Regents. Ms. Acopan graduated from 'Iolani School and earned her bachelor's degree from the Mānoa campus in December. She is continuing her education by pursuing a graduate degree, again at Mānoa, while continuing to be a wife and mother of three school-aged children. Of all the nominees, Ms. Acopan comes with the most experience with the UH System. Before entering Mānoa, she earned her associate's degree from Windward Community College, where she was the president of the student body for two years. She complements that with work in lower and higher education, where she is a Department of Education substitute teacher, and with Upward Bound with Windward Community College and as a graduate assistant with the UH history department. As a former student leader and current student, Ms. Acopan sees affordability and accessibility as major challenges for the school. She would like to have students be able to graduate on time without worry for course availability or cost of tuition while also enjoying the meaningful experience of college life.

"Mr. President, members of the Senate, we have before us the nominations of three very qualified, capable, and outstanding citizens who are willing to devote themselves to the governance of the University of Hawai'i. These nominees have been approved by your Senate Committee on Higher Education as individuals for their unique perspectives. It is our hope that each of them will reflect their perspective as a member of the Board of Regents, and remember that they will be held accountable for the performance and budget of the university and the performance of the administration. The members of your committee recommend the full Senate join us in confirming their nominations. Thank you."

The Chair thanked Senator Kim and the Committee on Higher Education for their work.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2231 (Gov. Msg. No. 649):

Senator Rhoads moved that Stand. Com. Rep. No. 2231 be received and placed on file, seconded by Senator Wakai and carried.

Senator Rhoads then moved that the Senate advise and consent to the nomination of WILLIAM PUETTE to the Civil Rights Commission, term to expire June 30, 2021, seconded by Senator Wakai.

Senator Rhoads rose to request that remarks in support of the nominee be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Rhoads's remarks read as follows:

"I am pleased to recommend Dr. William Puette to be appointed to the Hawai'i Civil Rights Commission. Mr. Puette has received the support for this nomination from a wide variety of organizations from the community. Dr. Puette has extensive experience in labor education and workers' rights, expertise in civil rights history, and dedication to public service. He has volunteered for the Hawai'i Civil Rights Commission in the past and is eager to serve again. Based on Mr. Puette's experience with and dedication to social justice, I consider

Mr. Puette to be a great fit to serve on the Hawai'i Civil Rights Commission."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 2232 (Gov. Msg. No. 710):

Senator Rhoads moved that Stand. Com. Rep. No. 2232 be received and placed on file, seconded by Senator Wakai and carried.

Senator Rhoads then moved that the Senate advise and consent to the nomination of TERRI MOTOSUE to the Commission on the Status of Women, term to expire June 30, 2023, seconded by Senator Wakai.

Senator Rhoads rose to request that remarks in support of the nominee be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Rhoads's remarks read as follows:

"I am fortunate to introduce Terri Motosue as the appointee for the Commission on the Status of Women. Ms. Motosue has shown great commitment to the plight of marginalized women in the State of Hawai'i. Ms. Motosue has served on the board of directors of Child and Family Services since 2010 and as a collaborating attorney with the Domestic Violence Action Center to train pro-bono lawyers to represent survivors of domestic violence. Currently she is a partner at Ashford and Wriston, after having been a managing partner at Carlsmith Ball for years. Given Ms. Motosue's dedication to women's concern and her extensive legal experience, I see her as a great asset to the Commission on the Status of Women."

The Chair thanked Senator Rhoads and the Committee on Judiciary for their work.

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Rhoads introduced Terri Motosue, newly confirmed member of the Commission on the Status of Women.

Senator Kim introduced Kelli Acopon, newly confirmed member of the Board of Regents of the University of Hawai'i, who was accompanied by her husband, Jared, and their son Zen.

Stand. Com. Rep. No. 2233 (Gov. Msg. No. 608):

Senator Kahele moved that Stand. Com. Rep. No. 2233 be received and placed on file, seconded by Senator Keith-Agaran and carried.

Senator Kahele then moved that the Senate advise and consent to the nomination of SUZANNE D. CASE as Chair of the Department of Land and Natural Resources, term to expire December 31, 2022, seconded by Senator Keith-Agaran.

Senator Kahele rose to speak in strong support of the nominee as follows:

"Colleagues, earlier this year, I had an opportunity to read a book titled *Hawaii Lawyer*, written by James Case (father of the nominee, who has joined us in the gallery today), born in 1920 on a sugar plantation on the island of Kaua'i. Hawai'i was still a young territory; its population was just 250,000 people. It is a fascinating book and, in it, he talks about his life, his wife of now 71 years—also named Suzanne—and four children who were born and raised in these islands, one of them being our nominee. He tells a story about a four-day, three-night family camping trip in 1965 through Haleakalā Crater. The family

would hike all day for hours and rest at Kapalaoa cabin, Palikū cabin, and, finally, Hōlua cabin before making their way out of the crater. Our nominee, who was nine years old on that trip, would get an opportunity to experience the beauty, the environment, the switchbacks, the vastness, the greatness of one of Hawai'i's marvels, Mount Haleakalā, and this is where the fabled one-eyed hokua of Hōlua is born. The young Suzanne, on day three, playing with her brother John, would get hit square in the head by a loose boulder. She almost passed out; she felt dizzy, ill, nauseated, and ultimately suffered a severe concussion. They would remain overnight at Hōlua cabin until she was stabilized. When she woke up in the morning, she had a large black eye where the rock had hit her. They covered her eye with a scarf, and they hiked out of the crater the next day, making it back down to Kahului to see the doctor. It was, I believe, stories and countless experiences like this, the love for our 'āina, our forests, its reefs and oceans, that were instilled in our nominee by her parents at a young age, that helped shape the person she is today. I'm reminded myself of my dad, who did the same thing for me, only on the South Kona coast of Hawai'i island, that helped shape my love and deep respect and appreciation for the environment and natural beauty that is Hawai'i.

"Our nominee would go to school in Hilo, where she attended Waiakea-Kai and Keaukaha Elementary Schools, eventually graduating from Punahou School. After high school, she attended Williams College and then Stanford University. She then received her juris doctorate from the University of California Hastings College of the Law in 1983. After receiving her juris doctorate, she worked in real estate transaction law for four years. From 1987 until 2001, the nominee served as Western and Asia/Pacific regional counsel for The Nature Conservancy, where she ultimately became the program's executive director from 2001 until 2015. In her 28-year career with The Nature Conservancy, our nominee oversaw 16 nature preserves totaling 53,000 acres and an annual operating budget of \$11 million. She gained vast legal experience during this time in forest stewardship, land protection, and marine preservation.

"In 2015, Suzanne Case was appointed by Governor Ige as chair of the Department of Land and Natural Resources, and, as chair, she currently oversees a staff of a thousand and a budget of \$159 million. A key focus of the department under Chair Case has been to fulfill the objectives of Governor Ige's Sustainable Hawai'i Initiative. Those objectives are to protect 30 percent of Hawai'i's priority watersheds by 2030, to effectively manage 30 percent of nearshore ocean waters by 2030, and to implement the Interagency Biosecurity Plan by 2027. Toward these goals, under Chair Case's leadership, the department has protected an additional 40,000 acres of priority watershed forests, produced the first-ever statewide coral bleaching recovery plan, worked with marine scientists to make Hawai'i one of the most data-rich marine areas in the world, initiated the statewide '30 by 30' marine planning process, established a coral nursery for lost or damaged reef, passed coral rules to enable the regulation of impacts to corals from private-sector projects, amended interim instream flow standards across the state, digitized all land conveyance records at the Bureau of Conveyances since 1845, completed Hawai'i's first interagency biosecurity planning process, and, finally, planted a quarter-million trees.

"The Senate Committee on Water and Land unanimously voted to advise and consent to the nomination of Chair Case. We concurred that Chair Case's extensive experience in conservation, land acquisition, and coastal preservation, as well as decades of legal experience, show that she is not only qualified for this position, her particular attributes will continue to be an exceptionally valuable asset to the Department of Land and Natural Resources.

"Mr. President, colleagues, in closing, I also have the utmost confidence that, after this often-contentious legislative session that has elevated the debate over water rights in this state to an entirely new level, the nominee, Suzanne Case, before she leaves office in four years—sooner rather than later, I would encourage—that she will do what no other chair of the Department of Land and Natural Resources has been able to do in its history, and that is to issue long-term water leases with her signature to each and every one of the current revocable permit holders so that we can finally put an end to this issue in our state and this body. Colleagues, I urge you to join me and support the nomination of Suzanne D. Case to continue as chair of the Department of Land and Natural Resources. Mahalo."

The Chair commented:

"Thank you. As my pastor would say in church on Sunday, 'How about an amen there,' Senator Kahele."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Kahele introduced Chair Suzanne Case, who was present in the gallery with her partner, Gigi Able, and her parents, James and Suzanne Case.

Stand. Com. Rep. No. 2234 (Gov. Msg. No. 609):

Senator Kahele moved that Stand. Com. Rep. No. 2234 be received and placed on file, seconded by Senator Keith-Agaran and carried.

Senator Kahele then moved that the Senate advise and consent to the nomination of ROBERT K. MASUDA as Deputy to the Chair of the Department of Land and Natural Resources, term to expire at noon on December 5, 2022, seconded by Senator Keith-Agaran.

Senator Kahele rose to speak in strong support of the nominee as follows:

"Colleagues, Robert K. Masuda holds a bachelor of science in applied behavioral science & group work education from George Williams College and an executive MBA from the University of Hawai'i. He has served for 55 years with the YMCA in a wide variety of administrative roles; his positions have included president and CEO of the Honolulu YMCA, executive director of the YMCA USA's International Division, director of the YMCA USA's International Office for China & the Pacific, and president and CEO of the Island of Hawai'i YMCA.

"For the last 12 years, Mr. Masuda has served as a senior advisor for Special Programs Development at the Institute for Pacific Islands Forestry under the U.S. Forest Service. Working with the U.S. Department of Agriculture, Bob Masuda has helped in initiating the Akaka Foundation for Tropical Forestry, which works with federal and state agencies to restore native tropical forests and eliminate threats that degrade Hawai'i's bio-cultural heritage.

"Mr. Masuda has served, on two separate occasions, as first deputy to the chair of DLNR: once from 2005 to 2007, and again as the current deputy director upon his appointment in 2017. In his current tenure at the department, Mr. Masuda has played a leading role in initiating the Natural Resources Advancement Team and the Honokōhau Small Boat Harbor Working Group, two major projects which exemplify a proactive approach to resource management. Robert Masuda has served as the point person for DLNR's emergency disaster response coordination, acting as the nexus for the department's various functions during emergencies and natural disasters. He has been instrumental in the department's work with the Office

of Hawaiian Affairs, Kamehameha Schools, and various Native Hawaiian groups to begin to rethink how the department manages its lands.

“The Senate Committee on Water and Land voted unanimously to advise and consent to the nomination of Bob Masuda as first deputy to the chair, and I truly believe that his experience at the international, federal, state, and county levels of government affairs and his genuine connection to a variety of communities across the state reiterate the value he brings in facilitating cooperation among different stakeholders. I believe that his multifaceted professional and governmental experience, spanning over five decades, will continue to be crucial to the Department of Land and Natural Resources. So, colleagues, I urge you to join me and support the nomination of Robert K. Masuda to continue as first deputy to the chair of the Department of Land and Natural Resources. Mahalo.”

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Senator Kahele introduced Deputy Robert Masuda, who was seated in the gallery.

Stand. Com. Rep. No. 2235 (Gov. Msg. No. 543):

At this time, the President made the following observation:

“The recommendation of the Committee on Public Safety, Intergovernmental, and Military Affairs on Governor’s Message No. 543 is that the Senate **not** advise and consent to the nomination. Therefore, the Chair will first entertain a motion to file Standing Committee Report No. 2235, then we will move on to the final vote on this matter.

“Pursuant to Senate Rule 37(3), the final question on nominations made by the governor that require the advice and consent of the Senate must be stated in the affirmative. Therefore, those casting ‘Aye’ votes are voting to confirm, and those casting ‘No’ votes are voting to reject the nomination. So, I’ll simplify it: The motion will be to approve. If you are in favor of the approval, then you would vote yes. If you are not in favor of the approval, you’ll vote no.”

Senator Dela Cruz moved that Stand. Com. Rep. No. 2235 be received and placed on file, seconded by Senator Kidani and carried.

Pursuant to Senate Rule 37(3), Senator Dela Cruz moved that the Senate advise and consent to the nomination of NOLAN P. ESPINDA as Director of the Department of Public Safety, term to expire at noon on December 5, 2022, seconded by Senator Kidani.

Senator Nishihara rose to speak in opposition to the nominee as follows:

“Colleagues, it is not an easy decision to speak against a nominee for an important department of our state. It does not take courage to oppose a person who many here will support. It does take conviction, however, to believe and stand before this most public of places to declare that this nominee does not meet the standards of management required to lead this department.

“The Committee on Public Safety, Intergovernmental, and Military Affairs met and decided not to advise and consent to Director Espinda as the director of Public Safety by a 5–0 vote. The committee took a considerable amount of time and energy to vet this nominee. They considered information, much of it from persons within the department who put their careers in jeopardy by even speaking to us. These are good and honest public servants concerned over what they saw as improprieties, some rising to unethical or possibly criminal behavior by the director or his deputies, down to immediate supervisors. The

committee was hampered by a lack of time and resources, including the inability to use subpoenas to grant whistleblower status to bring witnesses forward to aid in transparency of information. We did the best we could; unfortunately, it may not be enough. The news media reported on a number of disturbing revelations; unfortunately, that, too, may not be enough. I would like to list some of the committee’s findings.

“Number one: Public Safety’s training and staff development administrator, Marte Martinez, lied on her job application regarding her education, naming educational institutions that she did not attend, including overstating her experience in public safety positions at a number of sheriff departments on the mainland. However, she was subsequently promoted by personnel supervisors, including those overseen by Deputy Director Maria Cook (previously, it was Cathy Ross). When confronted with the discrepancies discovered by news reporters, they tried to cover it up. Ms. Martinez is currently tasked with training **all** of Public Safety personnel, including ACOs and sheriffs. The sheriff who shot and killed the homeless individual in the rotunda just above us was trained by this trainer. She has neither the training nor the certification to do this job.

“Director Espinda claims that overtime has been cut. However, by cutting overtime by reducing staffing, he leaves the facility with insufficient personnel, and places both the ACOs and inmates at risk. A case in point was the Maui riot. Director Espinda claims that overcrowding was the cause of the riot; however, overcrowding is prevalent throughout the PSD system, but riots do not occur elsewhere.

“PREA, the Prison Rape Enforcement Act, was put in place throughout the prison system throughout the country and is a federal mandate. This act has been and continues to be violated with the tacit acquiescence of the director by the person put in charge of PREA compliance. It has been reported that the data ensuring compliance is fraudulent or non-existent.

“A law was passed by the Legislature two years ago which required inmate identification. When Director Espinda was asked at one of the hearings regarding the number of inmate IDs completed, he stated that they were working on it and had completed only a handful of the IDs. However, by contrast, the Waikiki Health Center has completed almost 90 percent of the ID requests—1,512 compared to just a handful by PSD.

“CALEA certification: At his first confirmation, Director Espinda told the state that his number one priority as director was to achieve CALEA certification. Three years have gone by. In the interim, he hired Renee Sonobe Hong as deputy director of law enforcement to oversee the CALEA certification. After I contacted the regional program manager for CALEA and learned that PSD had not even **applied** for CALEA program certification and the news media reported that fact, Sonobe Hong called the regional manager, who’s on the mainland, to ask what she needed to do to **start** the program. Let it be noted that the Maui Police Department, the Big Island police department, Kaua’i Police Department, and our own HPD are all CALEA-certified.

“Under the advisement of the attorney general, our committee could not get answers to a number of pressing questions related to the ongoing investigations into the Maui riot, OCCC escape and death of the escapee, and the shooting of the homeless man at our state capitol. All of these investigations are still ongoing as we speak. These investigations and restriction into the possible culpability of the director of our jails comes as we are now considering his reappointment. The governor has even taken an unprecedented and keen interest in his nominee’s reappointment to the degree of having his chief of staff intimately involved in making daily rounds to assure the support from senators.

“There are other instances where leadership was lacking. We have also heard too many stories of intimidation and retaliation from individuals within the department. This type of environment cannot and should not be allowed to continue. We cannot afford a continuation of the same leadership style. What I am saying is that the current director is not the right person for the job of leading and managing this large and complex organization.

“Our own H.C.R. 85 criminal justice reform task force called for moving Hawai‘i into a different direction to improve outcomes and bring costs under control, transitioning from a punitive to a rehabilitative correctional system, one where our inmate population will receive job training, drug treatment, and mental health services that will reduce the recidivism rate and address the overrepresentation of Native Hawaiians. We will not achieve a reduction of overcrowding by building bigger and better jails and prisons; we will do so by reducing numbers of pre-trial detainees. To achieve that goal, we need new leadership that will work towards a new vision, not continue with more incarceration and punishment.

“Within the Department of Public Safety, safety for the public should also include rehabilitation of persons who have done criminal acts and ultimately return them back into society after completion of their punishment and sentences. The department is also called the department of corrections: It is tasked with instituting programs and policies that will lead inmates to correct bad behavior that led to their incarceration. The high recidivism rates of over 40 to 50 percent indicate a failure of programs and leadership.

“The Public Safety department has not been managed well, and it lacks accountability under the current director. Our state and its many departments should expect leadership without favoritism; leadership without fear, intimidation, or retaliation; leadership that will not place people in positions to cover up wrongdoings or misdeeds within the department. It is time to change and time for new leadership within the Public Safety department, with more accountability and a greater adherence to mandates and established policies. So, colleagues, I ask that you weigh these considerations heavily before you take your final vote, and oppose his nomination. Thank you, Mr. President.”

Senator Kahele rose to speak in opposition to the nominee as follows:

“On January 13, 2018, at 8:07 a.m., Vern Miyagi was at home in Hawai‘i Kai, drinking a cup of coffee, ready to start a relaxing weekend. He was not in his office in Diamond Head. He was literally at home, miles away, when one of his employees pushed the button and erroneously sent out a false missile alert that terrified hundreds of thousands of people. Miyagi, a 37-year veteran of the military, a retired major general, is a man of tremendous honor. He was a stellar administrator and leader. That day, as many remember, when everyone else was making excuses, Vern Miyagi stepped forward in front of all the cameras and said, and I quote, ‘This is on me.’ For, while he may not have pressed the button—in fact, he wasn’t even in the building—but as administrator, he was in charge. The missile crisis may not have been his fault, but it was nonetheless his responsibility.

“Like Vern Miyagi, I believe the nominee, Nolan Espinda, is a man of tremendous honor. I think he is a dedicated public servant, a devoted husband, a father, who has been with the Department of Public Safety for over 35 years. He has worked in facilities across the system, from the Hawaii Youth Correctional Facility to OCCC to Halawa and, most recently, as its director. The director of Public Safety is not an easy job. It is a highly visible, largely thankless, position that has admittedly been under-resourced. It is quite possibly one of the most difficult jobs in the state.

“Nolan Espinda was not at OCCC on March 1st when, because of an open door and an open gate, Maurice Arrisgado, Jr. was shot and killed trying to escape, nor was he on Maui on March 11th when 214 inmates breached their cell doors and started a riot that included trying to burn officers alive in their control boxes and when a critical part of the investigation, a SIM card for a camera that could have recorded the event, went mysteriously missing. Nor was he at the Capitol, right here, on the evening of February 18th when a sheriff’s deputy shot and killed a homeless man, Delmar Espejo. He wasn’t on Hawai‘i island on September 15, 2015, when William Carroll, who was arrested for theft and criminal property damage, was inadvertently released, and, since then, since September of 2015, 20 inmates were inadvertently released from the Hawaii Community Correctional Center since he has been at the helm, creating panic throughout Hawai‘i island and resulting in thousands of dollars being expended in manhunts to find these mistakenly released inmates. Director Espinda was not present for **any** of these events. He was not a direct cause of a single one of them, but they were nonetheless, as the director of the Department of Public Safety, his responsibility.

“There are clearly serious systemic problems with the Department of Public Safety, and there have been for years. I have no doubt that the director has inherited many of them and made considerable strides in correcting a number of the department’s problems. And were it not for the very serious breaches that have occurred this year—just last month on the island of Maui—all while the director was seeking reconfirmation, I would be voting for his reconfirmation. But, as an elected official, I simply cannot ignore that there have been two fatal shootings and a prior riot, 20 inadvertent releases since September 2015 on Hawai‘i island. There needs to be accountability, and that accountability needs to be and start at the top.

“It’s a special privilege that this body has to advise and consent to nominations to lead our critically important 18 state departments, and whether the nominee is confirmed or not confirmed by this body, it is important, and I hope that my message sends to **any** director and **any** chair and **any** nominee that we expect no excuses, that we expect you take responsibility, and that accountability starts at the very top. I want to genuinely commend Director Espinda for how he has handled himself throughout this nomination, as well as his family. It has admittedly been challenging, and he has been the epitome of professionalism throughout the entire process. But because of that and what I have outlined and the grave concerns I have, I cannot support the nomination. Thank you, Mr. President.”

Senator Baker rose to speak in strong opposition to the nominee as follows:

“I’d like to have the words of the chair of the Committee on Public Safety, Intergovernmental, and Military Affairs included into the Journal as if they were my own, as well as the eloquent statement by our Majority Floor Leader.” (The Chair so ordered, by reference only.) “And I want to explain why I am planning to vote in opposition to this governor’s message.”

“The Public Safety department is a troubled department, I believe, in large part due to the lack of leadership demonstrated by the current director, who is seeking reappointment. Currently, colleagues, there are four different entities looking into a variety of concerns about operations and other matters at PSD: The U.S. Department of Justice, in response to an ACLU Hawai‘i complaint on unconstitutional prison conditions and overcrowding at Hawaii’s jails and prisons; an FBI complaint regarding PREA violations, submitting false information regarding MCCC PREA audit report, June 1, 2018, and turned over to the white-collar crimes department; the Hawai‘i Department of the Attorney General opened a case, No. 19-

0734, regarding the mispending of public funds and other violations in 2019; and the State Ethics Commission is looking into a complaint filed regarding procurement law and other violations in 2019.

“There are documented deviations from the staffing plan that the auditor needs to review: a claimed shortage of female-deployed staff when there were female staff available, but male staff worked gender-posts for overtime pay. A documented sex assault of an inmate that led to a suicide while Director Espinda was the warden at Halawa. And then there’s the MCCC riot—not a disturbance, colleagues, as PSD characterized it, but a full-blown riot—which, according to people on the ground, had been building for a very long time: high staff turnover, a poorly run facility, drugs that were pervasive inside MCCC, overcrowding, broken AC and phones, and a TA chief of security captain who told the inmates, ‘Go ahead and do what you gotta do,’ and that attitude placed lives of staff and inmates in danger. Here’s what one family member reported to me: There were four phones on the unit, but three were broken. Inmates were allowed to receive mail only once per week, making connection with families difficult. Inmates were, in fact, hurt in the riot, some with serious injuries, like a broken jaw. Inmates and families at MCCC believe no one cares about them or what happens to them. They’re just warehoused.

“Mental illness is rampant in all of our facilities and certainly has not been addressed at MCCC, and the staff is not trained on how to assess or deal with folks with psychosis, mood disorder, substance abuse, or behavioral disorders due to aging. The staff isn’t trained on how to prevent suicides. While the department may have spent considerable dollars on less-than-lethal weapons, the staff is not trained on them, doesn’t have access to them; they’re locked up some place off-site. According to media reports and email that I’ve received from Maui, the staff at MCCC were ‘armed’ only with handcuffs. They did not have training to address the situation that erupted into a riot. In addition, Hawai‘i has no training academy for its corrections personnel. The police do. Personnel who oversee training for corrections staff don’t appear to be qualified trainers, some with questionable credentials.

“All of these deficiencies fall directly at the director’s doorstep. From the conversations I’ve had with staff, law enforcement, corrections, and family of inmates, it appears to me that morale functioning of the department has deteriorated over the past four years while the current director has been director. I find a leadership vacuum at the Department of Public Safety because leadership has to come from the top, and the top is the director. Through his policies and procedures, I believe he has put both staff and inmates at risk. I am voting ‘no’ on Governor’s Message 543 because I find that Mr. Espinda lacks the leadership skills necessary to lead this very difficult department. The Department of Public Safety, in my view, needs to move forward in a **new** direction with a **new** director who has the skill sets and ability to provide leadership to the law enforcement side as well as the corrections side. Mahalo.”

Senator Harimoto rose to speak in opposition to the nominee as follows:

“Thank you, Mr. President. I have never before spoken in this chamber to oppose the confirmation of a nominee. It pains me to do so today. While I do not wish to speak badly of anyone, I believe that it is my responsibility and duty to explain why I cannot support the confirmation of Mr. Espinda as director of the Public Safety department.

“It is clear to me that this is a troubled department in need of new leadership. Mr. Espinda has been at the helm of the department for the last four years. To continue the status quo for another four years is not in the best interest of the public. Granted, this is a difficult department to manage, but that is not

good reason for us to lower our expectations of the director. Many employees and members of the public have lost confidence in the current department leadership. We need a director with clear vision and who will be the champion to lead the charge toward that vision. We need a director who will be a dynamic leader in advocating for needed reforms and usher in new ideas and innovations. We need a director who will command the respect of employees, advocates, legislators, and the public. We should expect nothing less.

“To be clear, some of the problems pre-date Mr. Espinda’s term as director, such as overcrowding and substandard facilities. However, there is much that he can do to address these problems that are within his control. His complacent acceptance of these problems and lack of leadership to address these problems are of serious concern.

“Mr. Espinda touts his success in reducing staff overtime costs, but the results raise concerns about safety. To be clear, the problems in the department are so much more significant and deep-rooted than simply overtime costs, and these problems are but the tip of the iceberg. These deep-rooted problems are not a result of a lack of funding, as some may say; they are the result of poor leadership and poor management.

“So many problems came to light in the past hearings, in the media, and from various sources that we should all be very concerned. The more I delve into these problems, the more concerned I become. Here are just a few of the problems: inmate escapes; releasing inmates by mistake; keeping inmates beyond their release dates; shootings, two of which recently resulted in deaths; inmate suicides; issues with weapons; issues with training; less-than-lethal weapons kept for training only and not deployed; reports of the training official’s questionable qualifications; failure to make progress to obtain national certification for law enforcement officers; the Maui riot; and, just last night, a media report that weapons and ammunitions do not comply with the department’s own policies. It seems like almost every day there are new reports of more problems. Clearly, this is a symptom of poor leadership and management.

“As a member of the Public Safety committee, I’ve heard from numerous current and former employees and others about deep-rooted and pervasive problems in the department. I read through every testimony and every email, and there are many, with emails still coming in. And I personally met with and spoke with employees, advocates, and members of the public. Many current and former employees from all areas of the department—corrections, sheriffs, and administration—bravely came forward to reveal disturbing information about what’s going on in the department, and many more say that they are afraid to speak out. Some people say that employees should just file a formal complaint or union grievance or file a lawsuit. Some say that these are just disgruntled employees. Others say that this complaint or that complaint turned out to be baseless. Perhaps. But it’s really not about any particular complaint or piece of information. As senators, we are not equipped to investigate specific complaints or even get the facts because these may be personnel issues. It is not our responsibility to investigate such complaints, but it is our job to listen and understand the nature of the complaints and to step back to put them into the perspective of legislative oversight. I find much of the information presented to be credible because there are common themes: an environment and culture of fear, intimidation, and retaliation; favoritism and nepotism; questionable procurement issues; lack of or failure to follow policies and procedures; no faith in internal investigations; you’re either for the director or against him. The information presented is certainly disturbing, but, more so, I’m concerned because perceptions of a toxic work environment are similar. This points to employees who have lost faith in and respect for their leadership. Last year, we had a bill calling for an audit of

the department. Mr. Espinda's harsh and accusatory testimony opposing an audit was appalling and totally unacceptable. Was he lashing out because he perceived us to be questioning what's going on? This was not the temperament of a good director, and it should give us personal insight into why employees might be afraid to speak out.

"And, finally, Mr. President, I respect the decision of each senator regarding the confirmation of Mr. Espinda. I only ask that my colleagues give serious consideration to the fact that the subject-matter committee members devoted so much time and energy in sifting through all the information presented, and the committee concluded that this is a troubled department desperately in need of new leadership. The lives of far too many people are literally in the hands of this department for us to allow the status quo to continue for another four years. It is for these reasons that I will be voting 'no.' Thank you."

Senator Chang rose to speak in opposition to the nominee as follows:

"May I have permission to insert the remarks of the Majority Floor Leader into the record as if they were my own?" (The Chair so ordered, by reference only.)

Senator Moriwaki rose to speak in support of the nominee with reservations as follows:

"It has been a troubling decision for me. I heard many of the employees; I read the testimonies; I looked at the documents. I also met with the director and the deputy director a couple of times, the governor's chief of staff, to carefully look at the issues that were troubling for this department: not having the policies and procedures; not having the training; inadequacy of the equipment; and not having good communication with all the employees in the department; and, the biggest, employees' fear of retaliation; not being able to voice their opinion for fear of being moved or suspended without due cause. Those concerns are very troubling. I talked with both the director and the deputy director, and was assured that they will make changes to address the concerns raised by employees. I've been in the cabinet a number of many moons ago, and it was a troubled department then as it is now. It was a very challenging department at that time, and then it only included Corrections. Today, it has the added responsibility of the sheriffs and law enforcement. And there is need for strong leadership among all three divisions, and especially in the Sheriff Division: They have not felt the support of management.

"I have received a number of responses and information from the director that there will be change; that he has heard loudly and clearly the problems in the department, especially the lack of communication, the lack of support of employees, the lack of training, the lack of equipment. Some of that is on our shoulders by not providing the funding and the positions for him to do his job, but I have been reassured, for example, that he will, beginning in May, have quarterly meetings. The deputy for the sheriff's division will be meeting quarterly with the commanders so that issues and concerns can be brought up and addressed and, especially, the policies and procedures that have been sitting for quite some time without adoption. I've also got assurances that the commanders' input on these policies are going to be expedited and submitted to HGEA by May 1st. I also have been assured that the issue that the PSM committee chair mentioned of the training director's background will be addressed; it is going to the internal affairs office to be fully investigated. These are actions the director is taking that I see as a commitment to change, to really hear from employees, hear from those who have been affected and afraid to speak, and I'm being assured that he will, in fact, make these changes. I'd like the record to show that he will, in fact, get the CALEA certification, as he promised, before his term is over should he be confirmed. Thank you, Mr. President."

Senator Inouye rose to speak in support of the nominee as follows:

"Much has been said on Governor's Message 543. However, let me say I firmly believe we have much to do as a whole if Nolan Espinda is confirmed. We have also failed tremendously in providing resources to the needs of the only state-run prison system that's been on request forms for more resources for many years. We have and continue to ask for more dollars to build a new stadium, millions of dollars for hospitals, for the homeless, for housing. Where are the dollars for our prison system?"

"Nolan Espinda is blamed for some of the deficiencies that are downright wrong. He has been slighted in newspapers, in social media, in emails and phone calls. Nolan Espinda, in my mind, is a reformer, and folks who think otherwise don't like it. I look at him as one who, when the going gets tough, the tough get going. There has been no director in the history of Public Safety who has stayed more than seven to ten years. It's a tough job.

"Mr. President, I look for a hero. We need a champion, and I hope there is someone here in this chamber to fight for our neglected facilities on all our islands, to provide more needed resources for personnel, to work with the director to make things right. Colleagues, please join me in confirming Nolan Espinda, Governor's Message 543. Thank you, Mr. President."

Senator Fevella rose to speak in support of the nominee with reservations as follows:

"Good afternoon. I wasn't going to say much this afternoon. In the committee: Yes, it was my fault; I wasn't paying attention. When I went into the committee, I told them in Senator Nishihara's office that I stand firm on my vote as reservations. Never changed from when I left the room; I went from committee to committee and I went to his committee. For whatever reason, I do not know how it was changed or I misled or misunderstood because all the governor's messages were all the same, so I voted the same every single time I went in there. So, when I voted 'with reservations,' I did not know that I was voting against his confirmation. Yes, I went in there to try to correct it. It couldn't be corrected, so, yes, it is five to zero. But I'm correcting it here on the floor that that's not how I wanted to vote. I wanted to vote for Espinda with reservations, and I'm going to tell you guys why.

"Yeah, I was not here four years ago when he got the job, but I feel, as one of the senators here, to keep his feet to the flame, I want to work with him. I think he deserved a chance after all what he went through with the media, every single email and every single one that I had from my community. My community, I think, has one of the most sheriffs, law enforcement, and even prison guards and inmates at OCCC and Halawa. And I had both sides telling me this, and this is the bottom line, from inmates to prison guards to sheriffs: If not Nolan, who? There's nobody who has the backbone. Understandable he's hard, but he's doing the job, from what I learned through my investigation, what the senators want: Cut the budget, overtime, making sure we have no cancellations on the weekends for the families to come and see their families in prison. Far as I see, he did his job.

"Yes, again, we talk about the riots in Maui, and, unfortunately, some people died. But if you guys look at what everything was said and done, even the inmates, some of the inmates, said it wasn't his fault. The prison guards who were treating them like inhuman conditions weren't Nolan's fault because he was not there on a daily basis. This was an eruption that was going to erupt whether Nolan was director or not. Why? Because it's our fault. For the overcrowding, it comes down to us; it's our fault, and it's not just four years ago. It's

been going on for years, overcrowding prisons, years. So he inherited the problem, tried to do the best he can from what I see, but then he's crucified in the media. I'm just really frustrated in a sense that a guy who put his health on the line, goes through all of this—he could've easily just said, 'I'm done. I'm not gonna put my wife, my family, my friends through this.' But he didn't. Every committee meeting, he sat there. Every question, everything that anybody asked him, he had an answer.

“So I interviewed pretty much the same people that my colleagues interviewed, in my district, at the coffee shops. Yes, I listened to them. But I'm going to tell you, fellow colleagues, my investigation and the bottom line is about the money. It is about the overtime; it is about the sick leave; it is. And a lot of you guys said it ain't, but it is. Out of the five people, four said the same thing in a different way. So my conclusion was that I was—and you can ask my wife and my family; I had a hard time—mine was a 'no' for a long time. But I'm going to tell you when the turning point came for me, guys: when Mrs. Espinda came and testified, not on the accomplishments of her husband or the things that he did for the state, but just to talk about her husband. I watched in the room the people who came and testified, in uniform or not, against Mr. Espinda. And my conclusion came when she gave that speech in that room. I looked across the room: If you had somewhat of not being selfish and not being for yourself, just had an open mind and one open heart, you could see your face change, the emotion change, in that room when she was speaking. We weren't looking at Nolan; we were looking at a wife speaking about her husband. And, you know what, the people who came against Nolan, nothing changed, but everybody else in the room, men, women in there, some of them had tears, some of them were crying, emotion, putting their head down. But the guys who came against Nolan in the audience, not a flicker because they did not come for their fellow colleagues who work with them. They came for one thing: I, me, myself, that's it. They weren't scared of repercussions; they weren't scared to lose their jobs; they weren't scared and afraid like they said they were; they weren't shaking, because they had no emotion, but I did. And that time when I was sitting there and I was listening to her and I said, wow. And then how's this one, we didn't take a stand then. We took another day to go vote. Media again got involved, ripping him to shreds. So, my fellow colleagues, on behalf of just justice and a willingness to serve and go through the pain and the suffering that this man went through for his job—none of us should have to go through something like that. Yes, he is the leader; he is at fault. I'm not saying none of the stuff that you guys saying is not true. But to cost a man his job because of a lot of hearsay and a lot of angry and disappointed employees, I think we should think different because that is not a way somebody should be losing their job.

“I am voting with reservations, but I'm going to tell you, since I sit on this committee and all the rest of the committees: If Mr. Espinda does get through this Senate, I guarantee you I'll be working side by side with that man to make sure everything that he said he was going to do, and everything that I'm saying here on the floor that he's going to do, I'm going to work with him. As long as I am the senator of 'Ewa Beach, I'll still be with him. I'll work with him, and I'll tell you why: because I think he's the work guy to do. Yeah, he's not a smiley guy, you know, walking around with big dimples in his face, but he is undoubtedly a strong man to lead. I understand you guys saying that he's not a good leader or he's not a leader, but he is. He is a good leader. I talked to some of his good friends who are prison guards, and they told me the day what I said over there in the committee and even what I'm saying now. Maybe he's not a great boss, yeah? But he is the one stepping up; he's the one to step up and make the change. So, if you guys can find somebody else better than Espinda, then that's a choice you guys make, but I am voting with reservations, and I'm willing

to work with him side by side. And thank you guys for your time. Thank you, Senate President.”

The Chair called for a Roll Call vote, and clarified the voting procedures.

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 17; Ayes with Reservations (English, Fevella, Gabbard, Ihara, Kanuha, Moriwaki, Shimabukuro). Noes, 8 (Baker, Chang, Harimoto, Kahele, Nishihara, Rhoads, Riviere, Wakai).

Senator Dela Cruz introduced Director Nolan Espinda, who was present in the gallery with his wife, Malia; his daughter Caitlyn and her fiancé, Ryan; and his grandson Royce.

The Chair then stated:

“Before moving on to the next item on the agenda, Senator Nishihara and I have talked at great length about what would be the next step if Director Espinda were confirmed today, much as we did with Deputy Director Aila. While there were concerns raised, the majority of the body felt that we wanted to give an opportunity to serve, but it would be incumbent on us to lay out terms of what we believe should be done and what we expect to see happening going forward. I think Senator Nishihara, both in the hearings and information briefings that he's held and his floor remarks, as well as the floor remarks from Senators Moriwaki, Baker, and Harimoto, have indicated a list. I'm going to ask Senator Nishihara, as the chair of the committee, to put that list together in writing and work with his colleagues so we can have an open line and a clear communication with Director Espinda so that we can achieve the goal of working together to move forward and ensure a better-functioning public safety operation here in the State of Hawai'i.

“Senator Inouye, to your question of the hero, it is not any question to me. In 2015, when I asked Senator Nishihara to chair this committee, he immediately answered to the task, and he has, with great passion and determination and countless hours of research, work, attending conferences to make sure he can do the best job that he can, he has been that champion, I believe, for us already, and I look forward to continuing to work with our champion to ensure that the people of Hawai'i get the best service in the public safety system, so thank you for your tireless efforts, Senator Nishihara.”

ADOPTION OF A RESOLUTION

MATTER DEFERRED FROM TUESDAY, APRIL 23, 2019

Stand. Com. Rep. No. 2236 (H.C.R. No. 161, H.D. 1):

On motion by Senator Kahele, seconded by Senator Fevella and carried, the report of the Committee was adopted and H.C.R. No. 161, H.D. 1, entitled: “HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY TO STUDY PROPERTIES IN OR AROUND KAKAAKO TO RECOMMEND APPROPRIATE SITES FOR A NEW FIRE STATION OR, ALTERNATIVELY, TO IDENTIFY EXISTING FIRE STATIONS THAT MAY BE RELOCATED OR EXPANDED TO MORE EFFECTIVELY SERVE THE KAKAAKO COMMUNITY,” was adopted.

FINAL ADOPTION

S.C.R. No. 38, S.D. 1, H.D. 1:

Senator Kahele moved that S.C.R. No. 38, S.D. 1, H.D. 1 be adopted, seconded by Senator Fevella.

Senator Baker rose to request that remarks in support of the measure be entered into the Journal, and the Chair so ordered.

The Chair having so ordered, Senator Baker's remarks read as follows:

"Mr. President, I rise in support of S.C.R. 38, S.D. 1, H.D. 1. A single restaurant in the United States wastes thousands of pounds of food a year. At the same time, food waste is a serious environmental problem and many of Hawaii's food drives need food donations to feed the needy. Lack of knowledge on how to donate food safely and fear of being held liable for any health problems that result from donated food may make some restaurants unwilling to donate. Please join me in voting to adopt this resolution. Mahalo."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 38, S.D. 1, and S.C.R. No. 38, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING RESTAURANTS TO DONATE ANY LEFTOVER FOOD TO HOMELESS SHELTERS AT THE END OF THEIR BUSINESS DAY AND URGING THE DEPARTMENT OF HEALTH TO DEVELOP AND DISSEMINATE TEMPERATURE CONTROLLED FOR SAFETY FOOD DONATION GUIDELINES," was Finally Adopted.

S.C.R. No. 204, H.D. 2:

On motion by Senator Kahele, seconded by Senator Fevella and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 204, and S.C.R. No. 204, H.D. 2, entitled: "SENATE CONCURRENT RESOLUTION URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS, AND GENETIC RESOURCES," was Finally Adopted.

APPOINTMENT AND DISCHARGE OF CONFEREES

S.B. No. 1167, S.D. 1 (H.D. 1):

The President discharged Senator Dela Cruz as chair and appointed Senator Gabbard as chair on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 1167, S.D. 1.

S.B. No. 1238, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1238, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Inouye, chair; Moriwaki, co-chair; Fevella as manager on the part of the Senate at such conference.

S.B. No. 1271, S.D. 1 (H.D. 1):

The President discharged all conferees on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 1271, S.D. 1.

S.B. No. 1292, S.D. 2 (H.D. 3):

The President discharged all conferees on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 1292, S.D. 2.

S.B. No. 1526, S.D. 1 (H.D. 1):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1526, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kahele, chair; Riviere, co-chair; Wakai, Fevella as managers on the part of the Senate at such conference.

H.B. No. 18, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 18, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Rhoads, chair; Riviere, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 615, H.D. 3 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 615, H.D. 3, and the request for a conference on the subject matter thereof, the President appointed Senators Kidani, chair; Rhoads, co-chair; Kanuha, Fevella as managers on the part of the Senate at such conference.

H.B. No. 808, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 808, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kahele, chair; Rhoads, Kanuha, co-chairs; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1219, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1219, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Kahele, chair; Inouye, co-chair; Wakai, Fevella as managers on the part of the Senate at such conference.

H.B. No. 1455, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1455, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Kim, chair; Keith-Agaran, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1539, H.D. 1 (S.D. 2):

The President discharged Senator Chang as manager and appointed Senator Nishihara as manager on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 1539, H.D. 1.

H.B. No. 1547, H.D. 2 (S.D. 3):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1547, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Kim, chair; Kidani, co-chair; Fevella as manager on the part of the Senate at such conference.

H.B. No. 1583, H.D. 2 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1583, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Kidani, chair; Wakai, Inouye, Baker, co-chairs; Fevella as manager on the part of the Senate at such conference.

ADJOURNMENT

At 12:51 p.m., on motion by Senator Kahele, seconded by Senator Fevella and carried, the Senate adjourned until 6:30 p.m., Thursday, April 25, 2019.